IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 5105 of 1998

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHIMSING JIVAJI RATHOD - Petitioner(s)
Versus
STATE OF GUJARAT & 4 - Respondent(s)

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Appearance :
MR HM PARIKH for Petitioner(s) : 1,
MR SP HASURKAR, AGP. for Respondent(s) : 1 - 5.

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 06/07/2006

ORAL JUDGMENT

1 This petition under Article 226 of the Constitution of India seeks to challenge order dated 9.6.1998 (Annexure-A) made by respondent No.4 – Authority, transferring the petitioner from Prohibition Department to his Parent Department viz. Police Department at Nadiad.

2 It is an admitted fact that the petitioner joined the service as a Constable in the Police Department in 1972. Since July, 1997 the petitioner was working in Prohibition and Excise Department, Nadiad Division on deputation from his parent department. By the impugned order respondent No.4 repatriated him to the Parent Department under District Superintendent of Police, Kheda at Nadiad. The grievance made on behalf of the petitioner is that the impugned order was made with a malafide intention at the behest of some antisocial elements whose antisocial activities were being disturbed and hurt by the action of the petitioner. That in the impugned order it has wrongly been mentioned that the services of the petitioner are not effective and satisfactory and are dubious in nature. According to the learned Advocate for the petitioner these observations amount to penal transfer. He, therefore, urged that the order granting interim relief at the time of admission requires to be confirmed and petition be allowed.

3 The entire petition is, to say the least, misconceived. It is an admitted fact that the petitioner was on deputation. The order is of repatriation to his Parent Department. The station of posting also is not changed. The petitioner has sought a direction that the petitioner should be continued at Nadiad Prohibition Station vide

prayer clause 15(A). The learned Advocate has failed to show as to how the petitioner can claim a lien at a particular post when on deputation.

4 In light of the aforesaid facts, which are not disputed, it is not possible to accept the contention on behalf of the petitioner that the impugned order suffers from any legal infirmity which would require this Court to exercise its extraordinary discretionary jurisdiction under Article 226 of the Constitution. The petition is required to be rejected and is rejected accordingly. Rule discharged. Interim relief stands vacated. There shall be no order as to costs.

(D.A.MEHTA, J.)

m.m.bhatt